



Battle Creek City Planning Commission

Staff report for January 27, 2010 meeting

To: Planning Commissioners

From: Christine M. Hilton, AICP, Planning Supervisor
Planning and Community Development Department

Subject: Petition S-02-10, a Special Use Permit request for 308 W. Roosevelt Avenue

Summary

Petition from Mr. Frank Mancina, MetroPCS, Inc. c/o Black & Veatch Corp., 30150 Telegraph Rd., Ste. 420, Bingham Farms, MI 48025, acting with the consent of Battle Creek Public Schools for a Special Use Permit to construct a Wireless Communications Tower (120 ft. tall monopole with electronic equipment cabinets) as permitted under the Planning and Zoning Code, Chapter 1297, Sec. 1297.09, for property located at 308 W. Roosevelt Ave., Parcel #0135-00-095-0, legally described as:

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Background/Property Information

The subject site is located southeast of the intersection of Goodale Avenue and Hubbard Street, west of Roosevelt Avenue, as indicated on the vicinity map included on the site plan. The property is currently owned by Battle Creek Public Schools and is used for their bus parking and maintenance. The property is currently zoned R-1B "Single Family Residential". The property is relatively flat and contains a fair amount of mature vegetation.

Surrounding land uses include:

North – Residential

South – Educations (BCPS Middle School, Battle Creek Academy)

East - Residential

West - Leila Arboretum

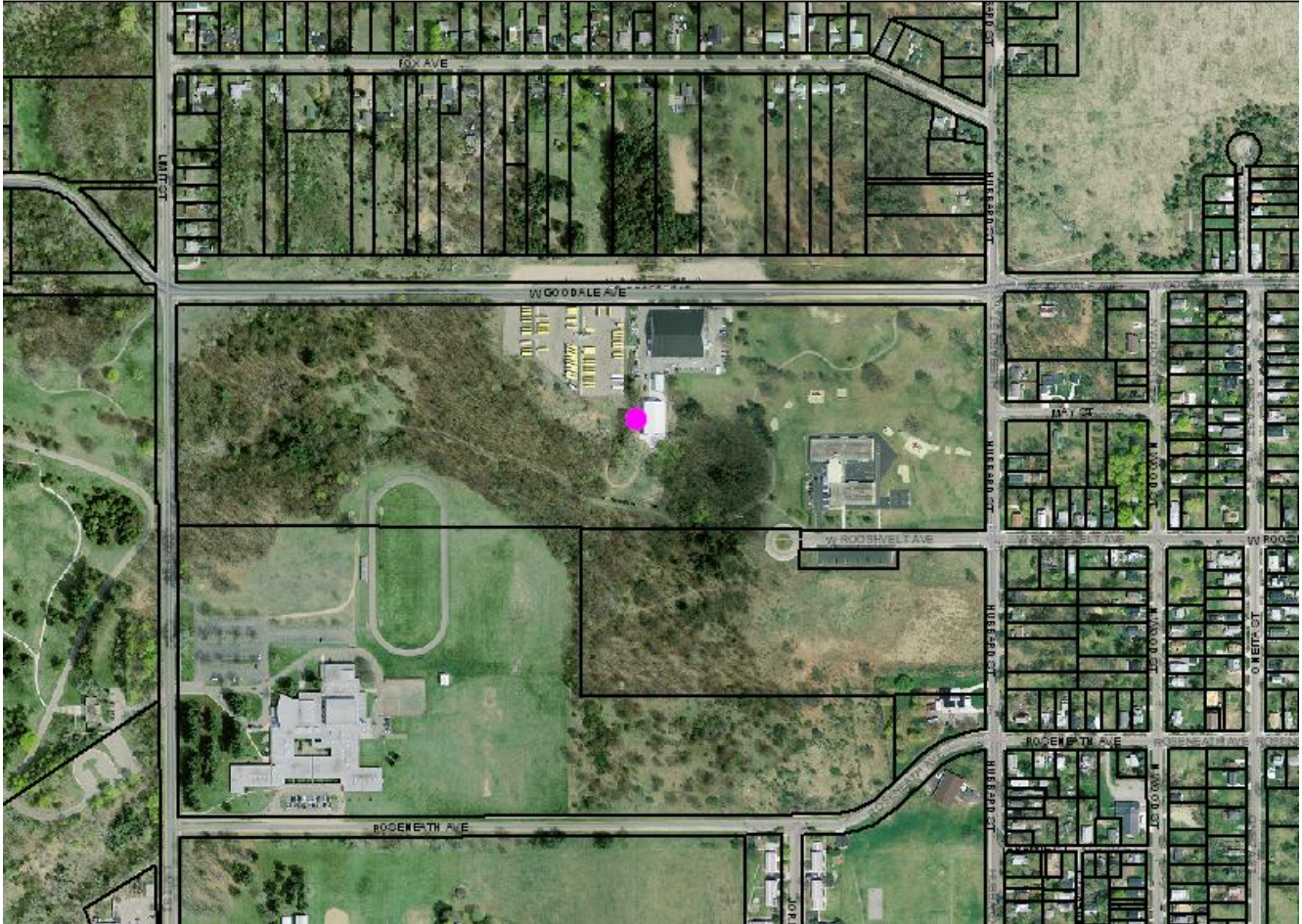
Applicable Zoning Ordinance Provisions

Section 1297.055 of the ordinance allows for cell towers in Single and Two Family Residential zoning districts as a special use only if they are new towers meeting the definition of "alternative tower structure".

The term "alternative tower structure" is defined by 1297.02(a):

Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

The petitioner is proposing a “flag pole type” of tower that meets the definition of alternative tower structure because the antenna is within a monopole structure and has a proposed stealth appearance. A similar request was approved by both the Planning Commission and City Commission in 2008 for property to the south of the subject property. The petitioner had not constructed the tower and the permit has since expired.



SITE LOCATION MAP

Proposed Scope of Project

The petitioner is seeking approval of special use permit that would allow a 120’ foot monopole wireless telecommunication tower. The antennas are enclosed inside the canisters and are not visible from the exterior. In addition to the tower, electronic equipment cabinets will be located at the base of the tower and surrounded by a 20’ x 80’ fenced-in compound. The fence will be 6’ tall and constructed of white vinyl material.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice listing the date, time, and subject of a public hearing shall be advertised no less than fifteen days prior to the hearing, and also mailed to all property owners and occupants of parcels within 300 feet of the subject parcel. Therefore, an advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, January 7, 2010, and notices of the public hearing were also sent by regular mail on January 7, 2010 to twelve (12) property owners and occupants of properties located within 300 feet of the subject parcel.

Neighborhood Outreach

We have not received any feedback from surrounding property owners regarding this request, and it is our understanding the petitioner has not yet approached the Neighborhood Planning Council #2 to discuss their request. We have received contact from Mr. Larry Bowron, Airport Manager, and he has no concerns with the request for a 120' monopole wireless communication tower at this location.



Basis For Determination

As a special use, the Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allows the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

Section 1297.10 of the Telecommunication Tower ordinances lists the following factors that shall be considered in the approval of a special use permit request:

(a) In addition to any standards for consideration of special use permit applications pursuant to Chapter 1290, the Planning Commission shall also consider the following factors in determining whether to recommend that the City Commission issue a special use permit for a tower or antenna. The Planning Commission is empowered to waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this chapter are better served thereby. The factors to be considered are:

- (1) Height of the proposed tower does not exceed that which is minimally required to function in accordance with Federal requirements and permit the co-location of additional antennas;
- (2) Proximity of the tower to residential structures and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties.
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower with particular reference to stealth or concealed tower structures design characteristics that have the effect of reducing or eliminating visual obtrusiveness and impact on surrounding public and residential property;
- (7) Proposed means of ingress and egress to the site from the public right-of-way;
- (8) Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures; and
- (9) A willingness to permit other communication service providers to co-locate antennas on the tower, upon agreement to reasonable terms and conditions. This factor does not require the tower owner to permit access where doing so will interfere with the owner's ability to provide or receive signals.

(b) No new tower shall be permitted unless the applicant can demonstrate by a preponderance of the evidence submitted on the record to the Planning Commission that no existing tower, structure, or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. The applicant shall submit information to the Planning Commission

relating to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (1) No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.
- (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
- (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (5) The fees, costs or other contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that would exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

Additionally, the request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the

persons or agencies responsible for the development shall be able to adequately provide such services.

(f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

(g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

(h) The use will be consistent with the intent and purpose of this Zoning Code.

Analysis

The proposed 120' tower is to be centrally located on a large piece of property, approximately 42 acres in size. The parcel contains a fair amount of mature vegetation which effectively screens the proposed tower, as seen from the enclosed photo renderings submitted by the petitioner. Furthermore, surrounding properties to the east, south, and west are all institutional in nature. The neighboring residential properties to the north all front on Fox Avenue, and the dwelling units themselves are located more than 1,000 feet away and screened by natural vegetation along Goodale Avenue.

Staff has reviewed the application and site plan and finds it consistent with the standards listed in both Chapters 1297.10 and 1290.04 as outlined above. Additionally, as part of their application the petitioner has done a thorough analysis of their petition as it relates to the ordinance.

The ordinance, specifically Chapter 1297.13, does require a landscape buffer that would screen the tower compound from residential properties. This same chapter also gives the Planning Commission the ability to waive this requirement where the visual impact would be minimal. Due to the location of the proposed tower, the only side in which would require landscaping is to the north. The petitioner has requested that this requirement be waived due to the amount of distance between the base of the tower and the residential properties to the north.

Recommendation

Planning staff recommends that the Planning Commission recommend approval of Special Use Permit Petition S-02-10 to the City Commission with the following conditions as the request, along with the stated conditions, meets the general standards listed in both Chapter 1297.10 and Chapter 1290.04 as outlined in this staff report.

The Planning Commission may, after the public hearing and deliberation, consider adding any other conditions as appropriate, or may upon deliberation, choose an alternative action from the following alternatives:

- A1: Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

Conditions of Approval

Project Specific Conditions

1. All necessary approvals and any required permits shall be obtained from the appropriate agencies, including but not limited to the Department of Public Works and Inspections Department, prior to Certificate of Occupancy.
2. The petitioner shall submit their Special Use Permit request to NPC #2 for their review and comment prior to the request being submitted to the City Commission.

Administrative Conditions:

3. Pursuant to Chapter 1232.01 (a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator or his or her agent. Such a certificate shall state that the new occupancy complies with this Zoning Code.
4. Pursuant to Chapter 1290.02 (e), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.

Attachments

The following information is attached and made part of this Staff report.

1. Special Use Permit petition Form and Supplemental Information (Petition #S-02-10)